

REMARKS

Claims 10-12, 21-26, and 30-36 were pending in the above-identified patent application when last examined. Claims 10-12, 21-26, 30, and 31 stand rejected, and the rejection was made final. This reply to the Final Office Action is being submitted with a Request for Continued Examination pursuant to 37 C.F.R. § 1.114.

Claims 32-36 (Group II) were withdrawn from consideration as being directed to an invention that is independent from previously elected claims 10-12, 21-26, 30 and 31 (Group I). In particular, the Examiner noted, "The invention of group I, is drawn to a test system comprising a light source, which is not required for group II. The invention of group II requires a reusable module, which is not required of the invention of group I."

Applicants respectfully traverse this restriction and request that the invention of claims 32-36 be considered in the present application because such examination can be done efficiently without undue burden on the Examiner. In particular, both groups of claims are drawn to the same general technology of rapid diagnostic test systems. Further, although the "reusable module" in claims 32-36 was not recited in independent claim 10, claims 11, 12, 21, and 22 included the limitation of a "reusable module" and are being examined in the present application. Further, claim 10 is now canceled. Consideration of claims 32-36 thus would not significantly expand the necessary search beyond that currently required for examination of the claims of Group I. Accordingly, in the interest of efficiency, Applicants request consideration of claims 32-36 in the present application.

Claims 30 and 31 were rejected under 35 U.S.C. § 112, second paragraph. In particular, the Examiner noted insufficient antecedent basis for "the first" and "the second" in claim 30 and "the test area" in claim 31. In response, claims 30 and 31 are amended to correct the problems with antecedent basis. In view of the above amendments, Applicants request reconsideration and withdrawal of the rejection under 35 U.S.C. § 112.

Claims 10-12 and 21-26 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 5,837,546 (Allen) in view of U.S. Pat. App. Pub. No. 2003/0082516 (Straus). Claim 10 is canceled. Applicants respectfully traverse the rejection of claims 11, 12, and 21-26.

Claim 11 distinguishes over Allen and Straus by reciting, "a photodetector positioned to measure light from the target area of the medium, wherein the photodetector

and the medium are contained in a single-use module; and a reusable module having a receptacle into which the single-use module can be inserted for communication of test signals between the single-use module and the reusable module.” The combination Allen and Straus fails to suggest a system having these features.

In response to Applicants’ prior arguments that Allen and Straus fail to suggest the combination of claim 11, the Examiner with reference to Allen stated, “all embodiments of the invention must be considered. . . . Allen also teaches an embodiment wherein the test system, including the photodetector and test strip, are contained in a single, disposable unit . . . Although Allen describes the reagent strip may be replaced once or several times such that the electronics component is re-used, this is merely one embodiment of the invention.” (See the Office Action starting at the bottom of page 9.) However, the rejection based on Allen and Straus is limited to the embodiments that references actually disclose or suggest. Allen and Straus fail to disclose or suggest the specific combination of a photodetector in a single-use module with a separate reusable module that communicates with the single-use module.

In accordance with an aspect of Applicants’ invention, a single-use module can include electronics capable of communicating test signals to a reusable module. This configuration can help avoid contamination of a reusable module that may result when the test strip contains a sample. The system can also keep the cost per use down by minimizing electronics in the single-use module. In contrast, Allen describes all or nothing approaches where either all of the electronics are discarded after a single use or all of the electronics are reused at the risk of possible contamination when replacing a test strip. Claim 11 is patentable over Allen and Straus at least because the combination of Allen and Straus fails to suggest Applicants’ inventive way of separating single-use and reusable components.

Claims 12 and 21-26 depend from claim 11 and are patentable over the combination of Allen and Strauss for at least the same reasons that claim 11 is patentable over Allen and Straus.

For the above reasons, Applicants request reconsideration and withdrawal of this rejection under 35 U.S.C. § 103.

Claims 10-12, 21-23, 26, 30, and 31 were rejected under 35 U.S.C. § 103(a) as unpatentable over Allen in view of U.S. Pat. App. Pub. No. 2002/0004246 (Daniels). Claim 10 is canceled. Applicants respectfully traverse the rejection of claims 11, 12, 21-23, 26, 30, and 31.

Claim 11 distinguishes over the combination of Allen and Daniels by reciting, "a photodetector positioned to measure light from the target area of the medium, wherein the photodetector and the medium are contained in a single-use module; and a reusable module having a receptacle into which the single-use module can be inserted for communication of test signals between the single-use module and the reusable module."

As noted above, Allen fails to disclose or suggest the recited way of separating single-use and reusable components. The Examiner relies on Daniels for teaching quantum dots as labels. However, Daniels even when combined with Allen does not provide the features of claim 11 not found in Allen. Accordingly, claim 11 is patentable over the combination of Allen and Daniels.

Claims 12, 21-23, 26, 30, and 31 depend from claim 11 and are patentable over the combination of Allen and Daniels for at least the same reasons that claim 11 is patentable over Allen and Daniels.

For the above reasons, Applicants request reconsideration and withdrawal of this rejection under 35 U.S.C. § 103.

In summary, claims 10-12, 21-26, and 30-36 were pending in the application. This response cancels claim 10 and amends claim 11, 22-24, 26, 30, and 31. For the above reasons, Applicants respectfully request allowance of the application including claims 11, 12, 21-26, and 30-36.

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Respectfully submitted,



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